

STATE OF NEW MEXICO
COUNTY OF CHAVES
FIFTH JUDICIAL DISTRICT COURT

FILED IN MY OFFICE
DISTRICT COURT CLERK
1/3/2014 4:53:00 PM
KENNON CROWHURST

ANTONIO MARTINEZ,

Plaintiff,

jb

v.

D-504-CV-2014-00004

JOSE GUTIERREZ,

Serve: 507 Star
Hereford, TX 79045

and

J & B TRANSPORTATION,

Serve: 233 Elm
Hereford, TX 79045

Defendants.

COMPLAINT FOR PERSONAL INJURIES

COMES NOW Plaintiff, by and through counsel, Ron Bell Injury Lawyers (Bryan L. Williams), and for his Complaint respectfully states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of Roswell, New Mexico.
2. Upon information and belief, Defendant JOSE GUTIERREZ ("GUTIERREZ") is a resident of Hereford, Texas. GUTIERREZ may be served with process by delivery of summons and a true and accurate copy of this Complaint to said Defendant at 507 Star, Hereford, TX 79045.
3. Defendant J & B TRANSPORTATION ("J & B") is a business of unknown organization with, upon information and belief, license to perform interstate trucking services. J & B may be served with process by delivery of summons and a true and accurate copy of this Complaint to 233 Elm, Hereford, Texas 79045.

4. This Court has jurisdiction over the parties to and subject matter of this litigation. This Court is the appropriate venue for resolution of all disputes as between the parties hereto.

FACTS

5. On or about May 10, 2012, in Chaves County, New Mexico, GUTIERREZ negligently and carelessly operated a 2001 Peterbilt tractor truck and trailer thereby causing same to collide with the 2001 GMC automobile being operated by Plaintiff at the same time and location. Specifically, GUTIERREZ disregarded a stop sign at the intersection of Caddo Road and Cherokee Road and drove the Peterbilt tractor truck and trailer into the path of Plaintiff's vehicle.

6. At all times pertinent hereto GUTIERREZ was the agent, servant, and/or employee of J & B and was acting within the course and scope of said agency, servitude, and/or employment. Upon information and belief, GUTIERREZ is the owner of J & B.

7. At all times pertinent hereto, Plaintiff exercised an appropriate degree of care for his own safety.

CAUSES OF ACTION

8. The negligent acts of GUTIERREZ and J & B, and each of them, were the direct and proximate cause of the subject collision and Plaintiff's resulting injuries and damages.

9. To the extent that GUTIERREZ and/or J & B violated applicable statutes and/or regulations, said Defendants are to be considered negligent *per se* and strictly liable to the Plaintiff.

10. By virtue of the employment relationship referenced above, J & B is vicariously liable for GUTIERREZ's negligence and carelessness and is financially responsible for Plaintiff's injuries and damages.

11. In order that Plaintiff may plead all causes of action and/or potential causes of action applicable to this loss, Plaintiff states that in the event it is determined that J & B was negligent in the hiring, supervision and/or retention of GUTIERREZ or that J & B was negligent in equipping and/or maintaining the subject Peterbilt tractor truck and trailer, said actions/inactions on the part of J & B are pled as additional bases upon which the Plaintiff may seek relief as against J & B.

PLAINTIFF'S INJURIES AND DAMAGES

12. As a direct and proximate result of the negligent and careless acts of each Defendant, the Plaintiff has been injured and damaged. The monetary value of Plaintiff's injuries and damages exceeds the minimum jurisdictional limits of this Court. Plaintiff's injuries and damages may include, but may not specifically be limited to, the following:

- (a) Medical bills and related expenses, past, present, and future;
- (b) Lost wages and impairment of earning capacity;
- (c) Physical pain and mental suffering, past, present, and future;
- (d) Property damage; and
- (e) Miscellaneous inconvenience and expense, past, present, and future.

Plaintiff seeks by this action to recover the full monetary value of her injuries and damages together with all available interest at the maximum legal rate.

PRAYER

WHEREFORE, the Plaintiff respectfully prays this Court for relief as follows:

- (a) For judgment as against each Defendant in an amount exceeding the minimum jurisdictional limits of this Court together with all available interest at the maximum legal rate;

- (b) For Plaintiff's costs incurred in pursuit of this action including attorney's fees to the extent permitted by law; and
- (c) For any and all relief to which it may appear the Plaintiff is entitled including trial by jury.

Respectfully submitted this 3rd day of January, 2014.

RON BELL INJURY LAWYERS

/s/ Bryan L. Williams

Bryan L. Williams
610 Seventh St. NW
Albuquerque, NM 87102
(505) 242-7979 ext. 280
FAX (505) 243-7192

CERTIFICATE OF SERVICE

The undersigned counsel does hereby certify that a true and accurate copy of this Complaint has been this day provided by U.S. Mail, postage prepaid, to each of the following entities. All parties receiving a copy of this Complaint are respectfully notified of the pendency of this action for purposes of subrogation claims, underinsured motorist claims, uninsured motorist claims, or any other purposes mandated by law or contract.

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Eddie Guerra
Hallmark Insurance Company
7550 W. IH-10, Ste 1400
San Antonio, TX 78229

IN RE:	Our Client:	ANTONIO MARTINEZ
	Our File No.:	443826
	Your Insured:	JOSE GUTIERREZ
	Your Claim No.:	121915TG
	DOI:	5-10-2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Jennifer McFarlin
Presbyterian Salud Subrogation
P.O. Box 27489
Albuquerque, NM 87125-7489

IN RE:	Our Client:	ANTONIO MARTINEZ
	Our File No.:	443826
	Your Insured:	ANTONIO MARTINEZ
	Your Event No.:	102114469-00
	DOI:	5-10-2012

This 3rd day of January, 2014.

/s/ Bryan L. Williams
Counsel for Plaintiff

SUMMONS	
Fifth Judicial District Court Chaves County New Mexico Court Address: P.O. Box 1776 Roswell, NM 88202-1776 Court Telephone No.: (575) 622-2212	Case No. D-504-CV-2014-00004 Judge: Honorable Freddie J. Romero
Plaintiff: ANTONIO MARTINEZ v. Defendant (s): JOSE GUTIERREZ and J & B TRANSPORTATION	Defendant: Jose Gutierrez 507 Star Hereford, TX 79045

TO THE ABOVE NAMED DEFENDANT: Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6606.

Dated at Roswell, New Mexico, this 9th day of January, 2014.

CLERK OF DISTRICT COURT

BY: s/Janet Bloomer
Deputy



/s/ Bryan L. Williams
Attorney for Plaintiff
Ron Bell Injury Lawyers
610 Seventh Street N.W.
Albuquerque, NM 87102
Tel: (505) 242-7979 Ext. 280 Fax: (505) 243-7192
bwilliams@898-bell.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN

STATE OF _____)
) ss
 COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ County on the _____ day of _____, 2014, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (*used when defendant accepts a copy of summons and complaint or refuses summons and complaint*).

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (*used when the defendant is not presently at place of abode*) and by mailing by first class mail to the defendant at _____ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [guardian ad litem] of defendant _____ (*used when the defendant is a minor or an incompetent person*).

☐ to _____ (*name of person*), agent for the _____, (*title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision*).

Fees: \$ _____

 Signature of Person Making Service

 Title, if any

Subscribed and sworn before me this _____ day of _____, 2014.

 Judge, Notary Public or other Officer

My Commission Expires: _____

SUMMONS	
Fifth Judicial District Court Chaves County New Mexico Court Address: P.O. Box 1776 Roswell, NM 88202-1776 Court Telephone No.: (575) 622-2212	Case No. D-504-CV-2014-00004 Judge: Honorable Freddie J. Romero
Plaintiff: ANTONIO MARTINEZ v. Defendant (s): JOSE GUTIERREZ and J & B TRANSPORTATION	Defendant: J & B Transportation 233 Elm Hereford, TX 79045

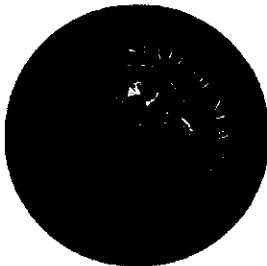
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3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6606.

Dated at Roswell, New Mexico, this 9th day of January, 2014.

CLERK OF DISTRICT COURT

BY: s/Janet Bloomer
Deputy



/s/ Bryan L. Williams
Attorney for Plaintiff
Ron Bell Injury Lawyers
610 Seventh Street N.W.
Albuquerque, NM 87102
Tel: (505) 242-7979 Ext. 280 Fax: (505) 243-7192
bwilliams@898-bell.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

My Commission Expires: _____

FILED IN MY OFFICE
DISTRICT COURT CLERK
1/31/2014 5:13:09 PM
KENNON GROWHURST

SUMMONS	
Fifth Judicial District Court Chaves County New Mexico Court Address: P.O. Box 1776 Roswell, NM 88202-1776 Court Telephone No.: (575) 622-2212	Case No. D-504-CV-2014-00004 Judge: Honorable Freddie J. Romero
Plaintiff: ANTONIO MARTINEZ v. Defendant(s): JOSE GUTIERREZ, and J & B TRANSPORTATION J & B	Defendant: J & B J & B Transportation 233 Elm Hereford, TX 79045

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3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
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Dated at Roswell, New Mexico, this 9th day of January, 2014.

CLERK OF DISTRICT COURT

BY: s/Janet Bloomer
Deputy



/s/ Bryan L. Williams
Attorney for Plaintiff
Ron Bell Injury Lawyers
610 Seventh Street N.W.
Albuquerque, NM 87102
Tel: (505) 242-7979 Ext. 280 Fax: (505) 243-7192
bwilliams@898-bell.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN

STATE OF Texas)
COUNTY OF Deaf Smith) ss

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Deaf Smith County on the 24th day of January, 2014, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:
(check one box and fill in appropriate blanks)

☒ to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses summons and complaint).

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to Diane Gutierrez, owner JEB Transportation, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____ (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [guardian ad litem] of defendant _____ (used when the defendant is a minor or an incompetent person).

☐ to _____ (name of person), agent for the _____ (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: \$ 75

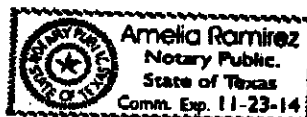
[Signature]
Signature of Person Making Service

Title, if any

Subscribed and sworn before me this 28th day of January, 2014.

Amelia Ramirez
Judge, Notary Public or other Officer

My Commission Expires: 11-23-2014



443826 NO

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DISTRICT COURT CLERK
1/31/2014 5:13:09 PM
KENNON GROWHURST

SUMMONS	
Fifth Judicial District Court Chaves County New Mexico Court Address: P.O. Box 1776 Roswell, NM 88202-1776 Court Telephone No.: (575) 622-2212	Case No. D-504-CV-2014-00004 Judge: Honorable Freddie J. Romero
Plaintiff: ANTONIO MARTINEZ v. Defendant (s): JOSE GUTIERREZ and J & B TRANSPORTATION J & B	Defendant: Jose Gutierrez 507 Star Hereford, TX 79045

jb

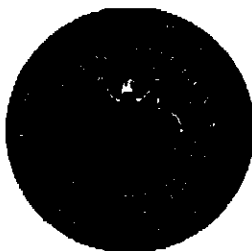
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5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6606.

Dated at Roswell, New Mexico, this 9th day of January, 2014.

CLERK OF DISTRICT COURT

BY: s/Janet Bloomer
Deputy



/s/ Bryan L. Williams
Attorney for Plaintiff
Ron Bell Injury Lawyers
610 Seventh Street N.W.
Albuquerque, NM 87102
Tel: (505) 242-7979 Ext. 280 Fax: (505) 243-7192
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THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN

STATE OF TEXAS)
COUNTY OF Deaf Smith) ss

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Deaf Smith County on the 24th day of January, 2014, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☒ to the defendant Jose Gutierrez (used when defendant accepts a copy of summons and complaint or refuses summons and complaint).

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

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☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

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☐ to _____ (name of person), agent for the _____, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: \$ 75

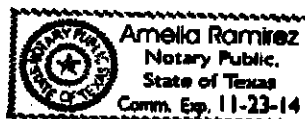
[Signature]
Signature of Person Making Service

Title, if any

Subscribed and sworn before me this 28th day of January, 2014.

Amelia Ramirez
Judge, Notary Public or other Officer

My Commission Expires: 11-23-2014



SCH 4030